

COMMONWEALTH OF PENNSYLVANIA
Department of Environmental Protection
Southwest Regional Office

MEMO

TO Air Quality Permit File Title V Operating TVOP-63-00016

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SUBJECT Comments and Response Document
Review of Title V Operating Renewal Application
Allegheny Energy Supply Company, LLC/Mitchell Power Station
Union Township, Washington County

Mitchell Power Station contains air contamination sources with the main sources consisting of one 2,988 MMBtu/hour, pulverized coal-fired boiler and three 841 MMBtu/hour oil-fired boilers. Supporting equipment at this site includes two auxiliary boilers, (rated at 27 MMBtu/hr fuel heat input capacity, one 850-bhp emergency diesel generator engine, three lime storage silos, No. 2 fuel oil storage tanks, 23 kerosene fired space heaters, a barge unloading system, lime vacuum conveying system, and waste water treatment system. Emissions from the coal-fired boiler are controlled by electrostatic precipitators and a wet lime reagent wet scrubber system.

On March 26, 2002, an initial Title V Operating Permit was issued for the Mitchell Power Station, operated by the Allegheny Energy Supply Company. This Operating Permit had an expiration date of March 26, 2007 and was identified as TVOP-63-00016. The Department amended this permit on September 5, 2002 to remove requirements of a terminated Consent Decree and to clarify some reporting requirements.

The Department again amended this permit on February 24, 2004 to incorporate the requirements of plan approval PA-63-00016B (low NO_x burner system on Boiler 33 (Source ID 034)). Also, the Operating Permit was amended on July 13, 2004 to clarify authorization to burn small volumes, less than 10,000 gallons annually, of waste oil.

This permit was again amended on September 7, 2006 to remove the particulate stack test requirement for the three oil-fired boilers (Source IDs 031, 032, and 033). This allowed particulate emissions for these boilers to be determined by estimation techniques other than stack testing of the individual boilers. The basis of this change was the very low operational utilization of these three EGUs.

Finally, two portable evaporative coolers were installed at the station on June 19, 2007. This caused an emission increase of 0.0027 tons per year of PM₁₀ from the facility. The increase was announced in the PA Bulletin on August 4, 2007.

The Department received a Title V permit renewal application for the Mitchell Power Station on September 27, 2006. The Department sent a clerical completeness letter to Allegheny Energy on October 5, 2006, and an administrative completeness letter on November 20, 2006. Notice of our intent to issue the renewal TVOP was published in the Pa. Bulletin on May 26, 2012 and in the Washington, PA, Observer-Reporter on May 27, 28 and 29, 2012. The 30-day comment period closed on June 28, 2012. Copies of the proposed TVOP and the associated Technical Review Memo were sent to EPA on May 29, 2012. Their 45-day comment period closed on July 13, 2012.

During the comment period, comments were received from Sierra Club on behalf of Sierra Club, Clean Air Council and Group Against Smog and Pollution, Permittee, PennEnvironment and 32 individual commenters. Their comments and our responses to them are contained in ATTACHMENT 1. A list of all changes that have been made to the TVOP since the draft was sent to EPA on May 29, 2012 is contained in ATTACHMENT 2. A list of all who provided comment is included as ATTACHMENT 3.

After thorough review and careful consideration of the comments received during the comment period, the TVOP has been revised where indicated in the Comments and Response Document. I recommend that this permit be issued with a five year term.

ATTACHMENT 1

I. Sierra Club, Clean Air Council, & GASP Comments

A letter was received from the Sierra Club, Clean Air Council, and GASP (Commenters #1 - #3) containing the following comments:

Comment 1: The draft permit must be revised to ensure that the Mitchell Station will not cause harmful air pollution or contribute to violations of Pennsylvania's acid rain provision. (SC Comment III.A Page 9)

Response 1: Commenter claims that the SO₂ limits in the TVOP are not sufficient to protect human health or to ensure compliance with the one-hour SO₂ National Ambient Air Quality Standard (NAAQS). The proposed TVOP contains all SO₂ emission limitations that are currently applicable. The 1-hour SO₂ NAAQS has not created any additional applicable requirements for the Mitchell Power Station. In accordance with 42 U.S. Code Sections 7409 and 7410, compliance with a new or revised NAAQS is accomplished through a planning process that ultimately results in a revision to Pennsylvania's State Implementation Plan ("SIP"). NAAQS compliance is not evaluated as part of individual operating permit reviews. See *Berks County v Department of Environmental Protection and Exide Technologies* (EHB Docket No. 2010-166-L) OPINION AND ORDER ON MOTION FOR SUMMARY JUDGMENT, issued March 16, 2012. This decision from the Pennsylvania Environmental Hearing Board has ruled that promulgation of a revised NAAQS does not authorize the Department to set requirements relating to the substances covered by the NAAQS in an operating permit outside the context of state implementation planning (SIP) process.

The 1-hour SO₂ NAAQS was promulgated on June 22, 2010. Attainment status designations have not yet been promulgated by EPA; DEP has recommended to EPA that Beaver, Washington, Indiana counties be designated as non-attainment for the 1-hour SO₂ NAAQS. On August 3, 2012, EPA has announced in the Federal Register that it will utilize a provision to delay the deadline for determination of attainment with the primary SO₂ standard for a third year, until June 3, 2013. Modeling done in support of the SIP revision process must be done in accordance with EPA guidance. EPA has not yet finalized modeling guidance for the SO₂ NAAQS. After designations are complete, DEP will develop and submit to EPA revisions of the SIP to achieve and/or maintain compliance with the 2010 NAAQS for SO₂.

Sierra Club has taken the position that the broad prohibition on air pollution found at Pa. Code 25 § 121.7 and the definition of air pollution found at Pa. Code 25 § 121.1 compel DEP to establish new SO₂ requirements in the TVOP for Mitchell. However, the provisions of Pa. Code 25 §§ 121.1 and 121.7 require facilities to comply with any revisions to 25 Pa. Code Chapters 121-145 which are promulgated as part of the SIP revisions undertaken to achieve and maintain compliance with a new or revised NAAQS. These regulations do not authorize the Department to impose additional SO₂ limits in Mitchell's TVOP. The proposed TVOP contains all applicable SO₂ emission limitations.

Commenter has misinterpreted 25 Pa. Code § 127.512(h) and its federal counterpart at 40 C.F.R. 70.6(a)(1) by implying that additional limitations and standards are to be imposed by a TVOP to “include operation and emission limitations sufficient to ensure that the permitted facility is in compliance with all applicable requirements assure compliance” with the underlying applicable limitations and standards that constitute the “applicable requirements”. In fact, TVOPs do not have the authority to impose new requirements that do not already exist with few exceptions. The July 10, 1995 Memorandum titled “White Paper for Streamlined Development of Part 70 Permit Applications” issued by Lydia N. Wegman, Deputy Director, Office of Air Quality Planning and Standards addresses this issue directly: “Title V of the Clean Air Act (the Act) and its implementing regulations in part 70 set forth minimum requirements for State operating permit programs. In general, this program was not intended by Congress to be the source of new substantive requirements. Rather, operating permits required by title V are meant to accomplish the largely procedural task of identifying and recording existing substantive requirements applicable to regulated sources and to assure compliance with these existing requirements. Accordingly, operating permits and their accompanying applications should be vehicles for defining existing compliance obligations rather than for imposing new requirements or accomplishing other objectives.” (*EPA White Paper for Streamlined Development of Part 70 Permit Applications*, Wegman, Lydia, July 10, 1995, p. 1).

Commenter states that “...the NAAQS provides a numerical translation of the SIP’s prohibition on air pollution... and “must be translated into the Plant’s (Mitchell) Title V permit limits in that fashion.” The TVOP is not the correct venue for translating ambient standards into permit limits. EPA recently addressed a similar claim regarding a broad Narrative Standard prohibition on air pollution in Washington’s SIP. (*See In the Matter of Transalta Centralia Generation, LLC*, EPA Order Denying Petition for Objection to Permit No. SW98-8-R3, (April 28, 2011) (hereinafter referred to as *Transalta*). In addition to stating that the petitioners in that case had not demonstrated that additional emissions limits or standards were needed, EPA stated that “...the SIP applicable requirement at issue ... is not derived from any federal requirement. EPA believes that it is therefore appropriate to consider Washington’s interpretation of this SIP provision in considering whether the SWCAA has appropriately addressed this requirement in the Transalta Title V Permit. In interpreting WAC 173-400-040(5) and SWCAA 400-040(5) in a challenge to this same...permit in a parallel proceeding, the Washington Pollution Hearing Control Board...concluded that, as a matter of Washington state law, this provision is intended as a broad prohibition on emissions of air contaminants and SWCAA is not required to translate this broad prohibition into source-specific emission limits on specific pollutants in Title V permits”. *See Order Granting Summary Judgment, Sierra Club, et al. v. Southwest Washington Clean Air Agency and Transalta Centralia Generation, L.L.C.*, PCHB No. 09-108 (April 19, 2010) at 19.¹ EPA denied the petitioners’ claims on this issue.

¹ In the Washington state proceeding referenced above, the Washington Pollution Hearing Control Board further determined that any other result would require local air authorities issuing Title V permits to add new substantive standards in the absence of authority to do so. PCHB No. 09-108 (April 19, 2010) at 20.

EPA has previously addressed a similar claim regarding a similarly broad prohibition on air pollution in the Georgia SIP. *See In the Matter of Hercules, Inc.*, Petition IV-2003—01, 2004 (November 10, 2004). In that case, EPA concluded that the permitting authority was not required to include specific emission limits or standards in the Hercules TVOP.

Pa. Code 25 § 127.531(f) requires that Acid Rain permits prohibit the exceedance of “applicable emission rates or standards, including ambient air quality standards.” Sierra Club has taken the position that this language compels DEP to establish new SO₂ requirements in the TVOP for Mitchell Station. Commenter misinterprets the SIP status of Pennsylvania’s acid rain regulations for the purposes of Title V and the definition of applicable requirement in § 121.1. In EPA’s approval of Pennsylvania’s Title V program on July 30, 1996, EPA delegated the federal acid rain provisions to the state because the state had not incorporated by reference the federal rules and did not adopt rules that conformed with EPA’s model acid rain regulations (61 FR 39598). Consequently, the requirements of § 127.531 are not part of the SIP and are superseded by the federal regulations as noted below.

Pa. Code 25 § 127.531 of Subchapter G contains the acid rain provisions of the Commonwealth's TVOP program. EPA is aware that Pennsylvania has not directly incorporated by reference EPA's Title IV regulations found at 40 CFR Part 72, and has not adopted EPA's model rule. However, as referenced in EPA's March 7, 1996 Federal Register notice proposing full approval of Pennsylvania's program (61 FR 9125), several regulatory provisions require that Pennsylvania's Title V program be operated in accordance with the requirements of Title IV and its implementing regulations. Section 127.531(a) provides that the acid rain provisions of that section "shall be interpreted in a manner consistent with the Clean Air Act and the regulations thereunder." Section 127.531(b) requires that affected sources submit a permit application and compliance plan "that meets the requirements of***the Clean Air Act and the regulations thereunder." Further, the § 121.1 definition of applicable requirements "for Title V sources includes standards or other requirements" of the acid rain program under Title IV of the Clean Air Act***or the regulations thereunder." For additional assurance that Pennsylvania's operating permit program will operate in compliance with applicable acid rain requirements, *EPA notes that the Commonwealth has agreed to accept delegation of the applicable provisions of 40 CFR Parts 70, 72, and 78 for the purpose of implementing the Title IV requirements of its operating permit program. The Pennsylvania Department of Environmental Protection (PADEP) shall apply these provisions for purposes of incorporating Acid Rain program requirements into each affected source's operating permit; identifying designated representatives; establishing permit application deadlines; issuing, denying, modifying, reopening, and renewing permits; establishing compliance plans; processing permit appeals; and issuing written exemptions under 40 C.F.R. 72.7 and 72.8. This commitment is contained in an Implementation Agreement which has been negotiated between EPA and PADEP, signed by PADEP on January 31, 1996, and by EPA on February 15, 1996. (Emphasis added).*

Comment 2: Pennsylvania's prohibition of harmful air pollution is an applicable requirement with which the plant's Title V permit must assure compliance. (SC Comment III.A.1.i, Page 9)

Response 2: Commenter is correct that both the definition of "air pollution" and the prohibition that no person shall cause, suffer or permit air pollution in Pa. Code 25 § 121.7 are in the SIP and that the latter is an applicable requirement as that term is defined in Pa. Code 25 § 121.1. However, commenter has misinterpreted Pa. Code 25 § 127.512(h) and its federal counterpart at 40 CFR § 70.6(a)(1) by implying that additional limitations and standards are to be imposed by a TVOP to "assure compliance" with the underlying applicable limitations and standards that constitute the "applicable requirement". In fact, TVOPs do not have the authority to impose new requirements that do not already exist with few exceptions. The July 10, 1995 Memorandum titled "White Paper for Streamlined Development of Part 70 Permit Applications" issued by Lydia N. Wegman, Deputy Director, Office of Air Quality Planning and Standards addresses this issue directly:

"Title V of the Clean Air Act (the Act) and its implementing regulations in part 70 set forth minimum requirements for State operating permit programs. In general, this program was not intended by Congress to be the source of new substantive requirements. Rather, operating permits required by title V are meant to accomplish the largely procedural task of identifying and recording existing substantive requirements applicable to regulated sources and to assure compliance with these existing requirements. Accordingly, operating permits and their accompanying applications should be vehicles for defining existing compliance obligations rather than for imposing new requirements or accomplishing other objectives."

Also, please see response to Comment 1.

Comment 3: Under Pennsylvania's Acid Rain Program, the SO₂ NAAQS is an applicable requirement. (SC Comment III.A.ii, Page 10)

Response 3: Primary NAAQS may be used as parameters for identifying air pollution, but by themselves they do not create an obligation for DEP to establish new TVOP requirements. In accordance with 40 CFR § 50.2(b) National primary ambient air quality standards define levels of air quality which the Administrator judges are necessary, with an adequate margin of safety, to protect the public health. National secondary ambient air quality standards define levels of air quality which the Administrator judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

Pennsylvania regulations at 25 Pa. Code § 121.1 define air pollution as "the presence in the outdoor atmosphere of any form of contaminant, including, but not limited to, the discharging from stacks, chimneys, openings, buildings, structures, open fires, vehicles, processes or any other source of any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic, hazardous or radioactive substances, waste or other matter in a place, manner or concentration inimical or which may be inimical to public health, safety or welfare or which is or may be injurious to human,

plant or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life or property.”

Additionally, please see response to Comment 1.

Comment 4: The draft permit’s SO₂ emissions limits must be revised in order to ensure Mitchell does not cause harmful air pollution or violate Pennsylvania’s Acid Rain Program. (SC Comment III.A.iii, Page 10)

Response 4: Commenter takes the position that the provisions of Pa. Code 25 § 127.531(f) are contained in Pennsylvania’s SIP and compel DEP to establish new SO₂ emission limits in the TVOP. Again, Commenter misinterprets the SIP status of Pennsylvania’s acid rain regulations for the purposes of Title V and the definition of applicable requirement in Pa. Code 25 § 121.1. In EPA’s approval of Pennsylvania’s TVOP on July 30, 1996, EPA delegated the federal acid rain provisions to the state because the state had not incorporated by reference the federal rules and did not adopt rules that conformed with EPA’s model acid rain regulations (61 FR 39598). Consequently, the requirements of Pa. Code 25 § 127.531 are not included in the SIP and are superseded by the federal regulations as noted below.

Pa. Code 25 § 127.531 of Subchapter G contains the acid rain provisions of the Commonwealth’s Title V operating permits program. As noted in EPA’s approval of Pennsylvania’s operating permit program (61 FR 39598). EPA is aware that Pennsylvania has not directly incorporated by reference EPA’s Title IV regulations found at 40 CFR Part 72, and has not adopted EPA’s model rule. However, as referenced in EPA’s March 7, 1996 Federal Register notice proposing full approval of Pennsylvania’s program (61 FR 9125), several regulatory provisions require that Pennsylvania’s Title V program be operated in accordance with the requirements of Title IV and its implementing regulations. Pa. Code 25 § 127.531(a) provides that the acid rain provisions of that section “shall be interpreted in a manner consistent with the Clean Air Act and the regulations thereunder.” Section 127.531(b) requires that affected sources submit a permit application and compliance plan “that meets the requirements of...the Clean Air Act and the regulations thereunder.” Further, the § 121.1 definition of “applicable requirements” for Title V sources includes standards or other requirements “of the acid rain program under Title IV of the Clean Air Act...or the regulations thereunder.” For additional assurance that Pennsylvania’s operating permit program will operate in compliance with applicable acid rain requirements, *EPA notes that the Commonwealth has agreed to accept delegation of the applicable provisions of 40 CFR Parts 70, 72, and 78 for the purpose of implementing the Title IV requirements of its operating permit program. The Pennsylvania Department of Environmental Protection (PADEP) shall apply these provisions for purposes of incorporating Acid Rain program requirements into each affected source’s operating permit; identifying designated representatives; establishing permit application deadlines; issuing, denying, modifying, reopening, and renewing permits; establishing compliance plans; processing permit appeals; and issuing written exemptions under 40 CFR § 72.7 and § 72.8. This commitment is contained in an Implementation Agreement which has been negotiated between EPA and*

PADEP, signed by PADEP on January 31, 1996, and by EPA on February 15, 1996. (Emphasis added).

Please see response to Comments 1 and 2.

Comment 5: The Draft Permit Fails to Include Emission Standards Sufficient to Ensure Compliance with the 1-Hour SO₂ NAAQS. (SC Comment III.A.iii.1, Page 10)

Response 5: Sierra Club has provided modeling which purports to demonstrate that the Mitchell Station is causing an exceedance of the 1-hour SO₂ NAAQS, and based on this modeling, Sierra Club takes the position that DEP should establish new SO₂ requirements in the TVOP for Mitchell. Commenter claims that, based on modeling they have performed, the draft permit, by virtue of its permit limits, will exceed the SO₂ NAAQS and that the limits must be revised to ensure compliance with the prohibition on "air pollution".

As explained by the EHB in Exide, "The Commonwealth must prepare and submit to EPA for approval a state implementation plan ... describing how the Commonwealth will implement, maintain, and enforce the ambient air standard...See 42 U.S.C §7410. Congress and the General Assembly have established statutory procedures for states to develop SIPs which by statute are defined as those "plans or plan revisions that a state is authorized and required to submit under Section 110 of the Clean Air Act....to provide for attainment of the national ambient air quality standards...The Department must follow the procedures established by state and federal statute to develop the SIP required to attain theSO₂ NAAQS.

In order for DEP to consider the modeling results, DEP requires that all modeling be conducted in accordance with a pre-approved protocol that is agreed upon by both DEP and the applicant. DEP has not been provided with an opportunity to review Sierra Club's modeling and the various inputs used in that modeling. Therefore DEP cannot reach any conclusions based on the modeling supplied by Sierra Club. Modeling for purposes of revising the SIP to achieve and/or maintain compliance with a new or revised NAAQS must be performed in accordance with EPA guidance. EPA has not yet finalized their modeling guidance for implementation of the 1-hour SO₂ NAAQS.

Please see response to Comment 1.

Comment 6: The draft permit fails to include averaging periods sufficient to ensure compliance with the 1-hour SO₂ NAAQS. (SC Comment III.A.iii.2, Page 12)

Response 6: Commenter claims that the averaging times of the existing SO₂ standards must be changed to reflect the new form of the NAAQS, and they base that claim on § 127.512(h) and § 139.13(6).

As noted in our response to Comment 1, Commenter has again misinterpreted § 127.512(h) by assuming that this provision requires the TVOP to impose additional requirements beyond the applicable requirement. EPA has provided guidance to the contrary. See response to Comment 1. In fact, the Commenter's suggestion to change the averaging period from what appears in the underlying SIP or an underlying permit, would violate Pa. Code 25 § 127.512(h), which requires the permit to include the applicable requirement, including all limitations, standards and operational limits and standards in their entirety, thus assuring compliance with the applicable requirement. With respect to Pa. Code 25 § 139.13(6), that provision merely sets the minimum sampling time and has no relevance to changing the averaging permit of the underlying permit limit.

Commenter also points to a number of instances where a one-hour averaging period for SO₂ would be required. All of these references are to pre-construction permits developed after adoption of the one-hour NAAQS for SO₂. In these instances, the Commenter is correct in that all new major facilities and new major modifications for SO₂ must include limits in their pre-construction permits that have the same averaging period as the ambient standard. However, the guidance, comments, etc. cited by the Commenter are not relevant to an existing facility that is not proposing to make a major modification that would increase SO₂ in significant amounts. It should also be noted that in cases where a new or expanding facility must have a pre-construction permit that includes a new hourly SO₂ limit, the previously existing applicable limits – whether they be SIP or permit-derived limits - must still be included in the TVOP because they remain applicable requirements, even when newer permit conditions may be imposed that are more stringent.

The promulgation of the 1-hour SO₂ NAAQS does not create an applicable requirement for the emission sources at the Mitchell Station. See response to Comment 1. The continued use of SO₂ CEMs will be used to demonstrate compliance with applicable SO₂ emission limits.

Comment 7: The Draft Permit Fails to Include Monitoring Requirements Sufficient to Ensure Compliance with Applicable Requirements. (Sierra Club III.A.iii.3, Page 12)

Response 7: The commenter states the coal-fired boiler should not be permitted to utilize sulfur-in-fuel analysis to determine emissions of SO₂. The Department agrees with this comment. Since 40 CFR, Part 75 requires the EGU boilers at the Mitchell Station to install and operate CEMs to determine SO₂ emissions, the option to use sulfur-in-fuel analysis described in 25 Pa. Code §123.25 is not applicable and these paragraphs will be deleted from the proposed TVOP renewal.

Comment 8: The draft permit's limits for NO_x emissions must be revised to reflect the one-hour standard in the NAAQS. (SC Comment III.B, Page 14)

Response 8: As explained in response to Comment 1, the promulgation of a new or revised NAAQS does not compel DEP to establish new emission limitations. The 1-hour NO₂

NAAQS, in and of itself, does not create applicable requirement for this facility. Compliance with a NAAQS is accomplished through a planning process that ultimately results in a revision to Pennsylvania's State Implementation Plan ("SIP"). NAAQS compliance was not evaluated as part of individual operating permit reviews. See *Berks County v Department of Environmental Protection and Exide Technologies* (EHB Docket No. 2010-166-L) OPINION AND ORDER ON MOTION FOR SUMMARY JUDGMENT, issued March 16, 2012). This decision from the Pennsylvania Environmental Hearing Board has ruled that promulgation of a revised NAAQS does not authorize the Department to set requirements relating to the substances covered by the NAAQS in an operating permit outside the context of state implementation planning (SIP) process.

The 1-hour NAAQS for NO₂ was promulgated on Feb 9, 2010. Attainment status designations for the NO₂ NAAQS have not been promulgated by EPA; DEP has recommended that the entire state be designated as attainment or unclassifiable. After designations are complete, DEP will develop and submit to EPA revisions of the State Implementation Plan to achieve and/or maintain compliance with the 2010 NAAQS for NO₂.

Please see response to Comment 1.

Comment 9: The draft permit must be revised to provide sufficient specificity in its requirements for emission monitoring for sulfur dioxide, nitrogen oxides, and carbon dioxide. (SC Comment III.C, Page 14)

Response 9: Commenter claims there are not sufficient specific monitoring requirements for sulfur dioxide, nitrogen oxides, and carbon dioxide. Specific requirements for monitoring of SO₂ and NO_x are included by six references to the Department's Continuous Source Monitoring Manual in Section G, Source Group G04 - Utility Boilers #1, #2, #3 and #33, Conditions #002, #004, #006, and #010. This manual is available on the Department's website. Reporting of deviations by sources with continuous emission monitoring systems, such as Mitchell, is subject to a facility specific protocol approved by the Department. This is required in the conditions Section B #023 and Section C #016.

Comment 10: The draft permit must be revised to include adequate reporting requirements. (SC Comment III.D, Page 15)

Response 10: The requirements for continuous monitoring of SO₂, NO_x, and CO₂ are contained in 40 CFR § § 75.11, 75.12, and 75.13. The entirety of Part 75, Continuous Emission Monitoring, is incorporated by reference in the proposed TVOP renewal in Section E, Source Group G04-Utility Boilers #1, #2, #3, and #33.

The TVOP also requires the submittal of semi-annual deviation reports, annual Compliance Certifications, annual emission reports which include hours of operation and fuel usage, and

quarterly CEMs Reports and prompt reporting of malfunctions. Sufficient monitoring and reporting provisions are included in the proposed TVOP renewal.

Comment 11: The permit must be revised to provide for adequate reporting of deviations. (SC Comment III.D.ii, Page 16)

Response 11: The proposed TVOP renewal contains language relating to relating to prompt reporting of malfunctions that may lead to deviations of the permit. Additionally, permittee is required to submit annual Compliance Certifications in accordance with Pa. Code 25 § 127.513, semi-annual deviation reports in accordance with Pa. Code 25 § 127.511 and quarterly CEMs reports. No additional reporting requirements have been added to the TVOP.

Comment 12: The Permit Must be Revised to Provide for Adequate Reporting of Malfunctions. (Sierra Club III.D.iii, Page 16)

Response 12: See response to Comment 11.

Comment 13: The draft permit must be revised to include adequate monitoring requirements for the plants particulate matter emissions. (SC Comment III.E, Page 17)

Response 13: No revisions to the proposed TVOP are necessary to ensure Mitchell's compliance with applicable particulate matter emission limitations and monitoring requirements. Compliance with applicable particulate is demonstrated through the use of biannual stack testing using EPA Reference Method 5 and the CAM Plans contained in the TVOP.

In August 1995, DEP Secretary Seif issued a Regulatory Basics Initiative which directed the Department to conduct an overall review of DEP's regulations and technical guidance documents. One of the purposes of this Initiative was to assure that agency requirements were no more stringent than standards imposed by Federal law without good reason. As a result of Department's 1995 Regulatory Basics Initiative, the Department amended Pa. Code 25 § 139.12 in 1997 so that the requirements for testing of particulate matter emissions from stationary sources are consistent with the federal requirements.

Therefore, since the amendment of Pa. Code 25 § 139.12, only the filterable emissions (as determined using EPA Reference Method 5) are used to demonstrate compliance with 25 Pa. Code Chapter 123 particulate emission standards. The applicable particulate matter emission limit for Mitchell's Source IDs 031, 032, 033 and 034 is found at Pa. Code 25 § 123.11 and is based on measuring filterable particulate matter only using EPA Reference Method 5.

Comment 14: The averaging time for determining an excursion of the calculated PM emissions has occurred is significantly weaker than the averaging period for PM emissions set forth in the SIP. (SC Comment III.E, Page 17)

Response 14: Compliance with the particulate matter emissions standards of Pa. Code 25 § 123.11 is based on the average of three one-hour sampling runs conducted in accordance with EPA Reference Method 5. See Section 2.4 of the *Department's Source Testing Manual*, Revision 3.3, November, 2000. Therefore, the three-hour averaging time for determining an excursion of the calculated PM emissions is appropriate. No changes have been made to the TVOP.

Comment 15: Particulate matter continuous emissions monitoring must be required in the final permit. (SC Comment III.E.i, Page 18)

Response 15: Installation of continuous emission monitoring for particulate matter emissions is not an applicable requirement for this facility. Reasonable assurance of compliance with the particulate standards of Pa. Code 25 § 123.11 for the coal-fired EGU is demonstrated through the use of the CAM Plan plus biannual stack testing. The CAM Plan is consistent with EPA's CAM guidance. The CAM Plans meet the applicable requirements of 40 CFR Part 64, relating to compliance assurance monitoring. The requirements in the TVOP require the monitoring of scrubber liquid flow rate and operating parameters of the electrostatic precipitator systems as indicators of filterable particulate matter emissions.

Comment 16: If continuous emissions monitoring is not employed to record levels of particulate, then quarterly stack testing must be required in order to more accurately reflect particulate emission rates. (SC Comment III.E.ii, Page 20)

Response 16: Prior to 2010, most EGU TVOPs required testing of filterable particulate matter once during the term of the permit or once every five years. In 2009, the Department required the operators of 73 electric generating units to conduct stack testing of filterable and condensable particulate matter for informational and planning purposes. After careful review of all testing results, on December 22, 2010, DEP released a final report entitled "Evaluation of Total Particulate Matter Emissions From Coal-Fired Electric Generating Units". The report concluded that frequency of particulate matter stack testing on EGUs should be increased to once every 2 years. This revised 2 year testing interval has been incorporated into the TVOP.

Commenter states that PM testing should be conducted in accordance with the final test method published in 75 FR 80118 (December 21, 2010). However, this publication deals only with methods for measurement of filterable PM₁₀ and PM_{2.5} and measurement of condensable PM emissions from stationary sources and is not relevant for purposes of testing for particulate matter using EPA Reference Method 5. Biannual stack testing coupled with the CAM Plans is sufficient to demonstrate compliance with the applicable PM emission limits.

Comment 17: Adequate Compliance Assurance Monitoring requirements must be required in the final permit. (SC Comment III.E.iii, Page 20)

Response 17: Mitchell Station has proposed to use ESP performance and scrubber liquid flow rate as an indicator of compliance with applicable PM emission limitations for Unit #33, Source ID 034. This approach is consistent with EPA CAM guidance. In accordance with 40 CFR § 64.7(b) and (d), all correlation instrumentation, installation of additional instruments (if applicable), and any other activities to support and implement this CAM Plan must be completed no later than six months after the issuance date of this TVOP.

Comment 18: In addition to the particulate testing for coal-fired boiler, Source ID 034, particulate emissions testing must be required for oil-fired boilers, Source IDs 031, 032, and 033. (SC Comment III.E.iv, Page 22)

Response 18: Stack testing of the three oil-fired EGUs is not required because these units only operate a few hours per year and stack testing would result in significant additional operation. In addition, particulate emissions for the three oil-fired EGUs are normally 1/8 of the emission limitation. For the three oil-fired units, compliance with the applicable PM standard is demonstrated through the use of fuel analyses and engineering calculations.

Comment 19: The draft permit must be revised to require that PM_{2.5} is limited separately from PM₁₀ and monitored for compliance purposes. (SC Comment III.F, Page 23)

Response 19: Emission limitations and monitoring for PM₁₀ and PM_{2.5} are not applicable requirements for this facility. Testing of PM₁₀ and PM_{2.5} emissions for informational purposes only is included in the proposed TVOP renewal under the authority of the Pennsylvania Air Pollution Control Act Section 6.1(b.1) and Pa. Code 25 § 127.441.

Commenter states that the TVOP must include separate and distinct limitations and standards for PM₁₀ and PM_{2.5} emissions and cites §127.512(h), §121.1 (applicable requirements), and § 141.1. The Commenter has not indicated what exactly the applicable requirement would be for PM₁₀ and PM_{2.5}. Pennsylvania's SIP does not impose PM_{2.5} requirements at this time, EPA has not issued any federal standards for PM_{2.5} that are applicable at this time and the Mitchell Station has not been issued any pre-construction or other permit that established requirements for PM_{2.5}.

Commenter states that the 0.1 lbs particulate matter/MMBtu limit in the permit does not distinguish between PM₁₀, PM_{2.5}, or PM and that the permit must be revised to incorporate the requisite PM₁₀ and PM_{2.5} standards. As noted above, there are no applicable requirements for PM₁₀ and PM_{2.5} for the Mitchell Station. The PM limit in the current

permit is based on the authority of Pa. Code 25 § 123.11, for which compliance is determined using Method 5.

Commenter claims that “consistent with the EPA’s treatment of emissions information for particulate matter, a Title V permit must include separate and distinct limitations and monitoring requirements for PM_{2.5} emissions”. The latter is true, but only once a new applicable requirement PM_{2.5} is established. EPA acknowledged in the final rule that “EPA and States have no choice but to revise the underlying standard by adopting new monitoring requirements through a notice and comment rulemaking. Further ...commenters indicate that it is essential that EPA require that no change in a test method or in methods of monitoring for determining compliance until such time as EPA or the permitting agency have undertaken a notice and comment process to determine how the emissions limitations must be revised”. EPA responded that “We agree that notice and comment rulemaking is appropriate for establishing effective regulations....We also agree that new regulations limiting direct PM_{2.5} emissions must include effective emissions limitations to the extent that a State must reduce sources of direct PM_{2.5}. How a State determines to take such regulatory action depends on the State’s implementation plan”. At this time, Pennsylvania has made no such rulemaking specifically for PM_{2.5} at existing facilities, nor has EPA with respect to the SIP for existing sources.

Furthermore, it appears that the Commenter has taken the citation to 72 FR 20659 out of context. The sentence following the quoted text states that “The degree of quantification of PM_{2.5} emissions required will depend on the types of determinations that a permitting authority needs to address for a particular source, the requirements of title V, and the informational needs and requirements of the particular State in question”. In responding to a commenter’s concern that the final rule would require “every source supplement or correct any existing title V application in order to provide an estimation of PM_{2.5} emissions at the source”, EPA responded that this is not the case:

“Circumstances necessitating the quantification of PM_{2.5} emissions and the submittal of this information include: (1) Determining all of the pollutants for which a source is major; (2) Determining whether an applicable requirement or program applies, e.g., determining the applicability of a SIP requirement or a PSD or nonattainment NSR program, etc.; or (3) determining what fees a source owes a permitting authority as a result of considering PM_{2.5} emissions. In all circumstances, however, a State may require that a source quantify its PM_{2.5} emissions information in an application, supplement, or correction, even if it is not needed for the particular determination at issue. The State, for example, may choose to obtain this information for air quality planning purposes, developing emission inventories, or for other purposes related to its air quality management goals. Requesting such emissions information is an option for any title V permitting authority.... In summary, the purpose of the statements made in the preamble to the proposal was to notify sources that as of the promulgation of this final rule, the EPA will no longer accept the use of PM₁₀ emissions information as a surrogate for PM_{2.5} emissions information given that both pollutants are regulated by a National Ambient Air Quality Standard and therefore are considered regulated air pollutants....The degree of quantification of PM_{2.5} emissions now required in an application (including an initial, modification, or renewal application), or provided in a

correction or supplement to an existing application, will depend on the types of determinations that a permitting particular source, the requirements of title V, and the informational needs and requirements of the particular State in question.” (72 FR 20659-20660)

Comment 20: The draft permit should be revised to require that condensable particulate matter is considered when determining compliance with the plant’s particulate emissions limitations. (SC Comment III.G, Page 24)

Response 20: Commenter states that the permit fails to “consider” condensable PM emissions and is consequently inadequate to assure compliance with the PM_{2.5} NAAQS and will fail to assure compliance with “applicable requirements”. The Commenter has not indicated which applicable requirements they believe are missing from the permit for condensable emissions. Nevertheless, there are no applicable requirements for limiting or testing condensable particulate emissions at this time, as explained above in our response to Comment 19. Emission limitations for condensable particulate matter are not applicable requirements for the Mitchell Station. Testing of PM_{2.5} emissions every 2 years for informational and planning purposes only is included in the proposed TVOP renewal under the authority of the Pennsylvania Air Pollution Control Act Section 6.1(b.1) and Pa. Code 25 § 127.441.

Comment 21: The draft permit should be revised to satisfy the Cross-State Air Pollution Rule (CSAPR). (SC Comment III.I, Page 26)

Response 21: Implementation of CSAPR as a replacement for the Clean Air Interstate Rule (CAIR) was stayed by the U.S. Court of Appeals for the DC Circuit on December 30, 2011. On August 21, 2012, a federal court vacated the rule. Therefore, CSAPR is not an applicable requirement for the Mitchell Station. The Pa. CAIR requirements of Pa. Code 25 §§ 145.201-145.223 remain in effect. CAIR is an allowance-based, cap and trade program. The establishment of NO_x and SO₂ CAIR allowances for the Mitchell Station does not require DEP to establish additional SO₂ or NO_x emission limitations in the TVOP.

Comment 22: The draft permit must be revised to include mercury and air toxics standards (MATS) for utilities requirements. (SC Comment III.J, Page 27)

Response 22: The requirements of the MATS rule are contained in 40 CFR Part 63, Subpart UUUUU. This subpart is incorporated into the proposed TVOP renewal by reference. Existing EGUs must comply with the requirements of this rule by April 16, 2015.

Comment 23: PA DEP must ensure that the applicable BART requirements have been satisfied. (SC Comment III.K, Page 28)

Response 23: The BART analysis for Mitchell Power Station (and all other EGU BART-Affected units) was performed by Joseph White, P.E., Air Pollution Engineer, Central Office for DEP and completed on January 17, 2008. The analysis was reviewed by the Manager of Air Permitting and Director of the Air Bureau. PA DEP submitted the BART analysis for the Mitchell Power Station to EPA as part of the regional haze plan for Pennsylvania, on December 20, 2010. Earthjustice submitted comments relating to the BART analysis for Mitchell Power Station during the EPA public comment period for the regional haze plan for Pennsylvania. These comments were reviewed by EPA. EPA approved the regional haze plan for Pennsylvania, on June 7, 2012.

Comment 24: The permit impermissibly claims to apply a permit shield to unidentified future projects. (SC Comment III.L, Page 29)

Response 24: The Clean Air Act (CAA), Pa. Air Pollution Control Act (Pa. APCA) and Pennsylvania DEP regulations provide that Minor Permit Modifications, Administrative Amendments, and de minimis emission increases are covered by a permit shield. See definition of Minor Operating Permit Modification found at Pa. Code 25 § 121.1, limits on Administrative Amendments found in Pa. Code 25 § 127.450(a) and limits on de minimis increases found in Pa. Code 25 § 127.449(b). These regulations specify criteria under which certain unidentified future projects can be made and covered under a permit shield. See Pa. Code 25 §§ 127.449(f), 127.450(d), and 127.462(g).

Comment 25: The draft permit must be revised to allow for credible evidence to determine compliance. (SC Comment III.M, Page 31)

Response 25: The Clean Air Act Amendments (CAAA) of 1990 modified the language of the Clean Air Act in Section 113(a) to state that violations may be determined “on the basis of any information available”. In addition, Section 113(e)(1) states “the duration of a violation may be determined by any credible evidence (including evidence other than the applicable test method).” This enables citizens, states, and EPA to rely on any credible evidence to demonstrate CAA violations. Permittees must consider all evidence when determining compliance in Compliance Certification Reporting. It is not necessary to make a change to the proposed TVOP renewal to allow the use of credible evidence in determination of compliance of the facility.

Comment 26: PERMIT SECTION B, CONDITION #004 - Section B, #004 requires the permittee to submit omitted or corrected information during the permit renewal process. However, 40 C.F.R. § 70.5(b) does not allow the permittee to wait until the permit renewal process to submit omitted or correction information. Rather, the permittee is required to submit the information “promptly.” Similarly, 25 Pa. Code § 127.414(b) does not allow the permittee to sit on omitted or corrected information until the next permit renewal process. Thus, #004 needs to be revised to require that omitted or corrected information be submitted

promptly. Correcting this provision is important because several enforcement actions have been based on this permit provision. (Sierra Club III.N.i, Page 32)

Response 26: Permit Section B, Condition #004 has been revised as requested.

Comment 27: PERMIT SECTION B, CONDITION #007 - There is no authority for the inclusion of Section B, #007(c). Section B, #007(b) comes from 25 Pa. Code §§ 127.25, 127.444. However, these code sections do not include any language similar to what Pa DEP has proposed to include in Section B, #007(c). Thus, because Pa DEP has no authority to include Section B, #007(c), Pa DEP must delete it. (Sierra Club III.N.ii, Page 32)

Response 27: Permit Section B, Condition #007 has been revised as requested.

Comment 28: PERMIT SECTION B, CONDITION #015 - 25 Pa. Code § 127.512(b) provides: "The permit shall contain a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to a portion of the permit." Section B, #015 limits the severability clause to the Pennsylvania Environmental Hearing Board or court of competent jurisdiction. However, the EPA also has the authority to invalidate individual provisions of this permit. Therefore, this condition should be revised to also include EPA within the scope of the severability clause. (Sierra Club III.N.iii, Page 33)

Response 28: Permit Section B, Condition #0015 has been revised as requested.

Comment 29: PERMIT SECTION B, CONDITION #017 - This condition needs specific monitoring. The generic requirement in #017(f) is not adequate. (Sierra Club III.N.iv, Page 33)

Response 29: Section B of the draft Operating Permit for Mitchell is titled General Title V Requirements and contains general requirements. Specific monitoring requirements are listed in later sections of the permit. Additionally, the Department may condition the de minimis increase at any time (Pa. Code 25 § 127.449(c)). In accordance with Pa. Code 25 § 127.449(i), the Southwest Regional Office tracks de minimis emissions increases in a local Access database and publishes notices of de minimis emission increases in the Pa. Bulletin. No changes have been made to this condition.

Comment 30: PERMIT SECTION B, CONDITION #018 - The Permit needs to include all the requirements in 25 Pa. Code § 127.11a(a)(2) – (5) and (b)(1)–(2), (e) and (f) as these are applicable requirements because they are in the SIP. (Sierra Club III.N.v Page 33)

Response 30: The paragraphs referenced in this comment are incorporated in the proposed TVOP renewal by reference, as stated in this condition. The reactivation provisions of Pa.

Code § 127.11a are not applicable requirements until a source has been out of operation or production for at least 1 year or more. No changes have been made to this condition.

Comment 31: PERMIT SECTION B, CONDITION #025 - Section B, #025(a)(1) & (4) must be deleted because they are contrary to 42 U.S.C. § 7475(a) in that it allows major modifications of major sources without PSD permits. For example, 25 Pa. Code § 127.14(a)(3) states that plan approvals are not required for combustion units that burn diesel fuel, i.e. NO₂, and are rated at 10 MMBtu/hour. Likewise, 25 Pa. Code § 127.449(e)(3) allows for the addition of diesel-fired engines rated at up to 10 MMBtu/hr. If a source added a new diesel-fired engine that was rated at 10 MMBtu/hr, it would create an emission increase of over 140 tons per year of NO_x, which is over the PSD significant emission rate. Similarly, 25 Pa. Code § 127.14(a)(2) suffers from the same problem because it does not prohibit the installation of multiple combustion units rated at 2.5 MMBtu or less. So just two diesel-fired engines rated at 2.5 MMBtu added to an existing source would be a major modification. (Sierra Club III.N.vi Page 33)

Response 31: These operational flexibility provisions of Pa Code Title 25 §§ 127.449, 127.450 and 127.462 are derived from § 502(b)(12) of the Clean Air Act and § 6.1(i) of the Pennsylvania Air Pollution Control Act. Changes pursuant to these cannot violate the regulations promulgated thereunder. No changes have been made to this condition.

Comment 32: PERMIT SECTION B, CONDITION #025 - In addition, Section B, #025(a)(2) must be deleted because it does not contain any description of the alternative operating scenario. 25 Pa. Code § 127.447(a) provides that the alternate operating scenarios must be identified in the sources permit. In addition, 25 Pa. Code § 127.447(b) requires that the permit include terms and conditions which:

(1) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating at all times and may require the source to notify the Department at the time it implements the change. . . .

(3) Shall ensure and require that the terms and conditions of each alternate scenario meet applicable requirements of the Clean Air Act, the act and the regulations thereunder. Section B, #025(a)(2) of the proposed permit does not contain any such terms and condition and, therefore, so much be deleted. (Sierra Club III.N.vi, Page 33)

Response 32: Pa. Code Title 25 § 127.447 is a general provision for Alternate Operating Scenarios (AOS). There are no alternate operating scenarios identified in the proposed TVOP renewal for the Mitchell Station. No changes have been made to this condition.

Comment 33: PERMIT SECTION B, CONDITION #026 - 40 C.F.R. § 70.6(a) requires Title V permits to include operational requirements to assure compliance with all applicable

requirements. However, Section B, #026 fails to specify whether CAA § 112(r) and 40 C.F.R. Part 68 is an applicable requirement to the Mitchell plant. This condition must be revised to include a determination of whether CAA § 112(r) and 40 C.F.R. Part 68 is applicable and if so, it must include a requirement that the source comply with its Risk Management Plan (RMP). In addition, the public must be given an opportunity to review and comment on the RMP. (Sierra Club III.N.vii, Page 34)

Response 33: The Risk Management provisions of 40 CFR 68 are included in the proposed TVOP renewal as general requirements. None of regulated substances identified in 40 CFR § 68.130 are present at the Mitchell facility in quantities greater than the threshold quantities to cause the applicability of a requirement to submit a Risk Management Plan under 40 CFR § 68.115. No changes have been made to this condition.

Comment 34: PERMIT SECTION C, CONDITION #024 – Pa DEP must ensure that the final Title V Permit includes all applicable PSD and NSR requirements. This refers to any previous, improper findings of de minimis emissions increases.

In addition, as stated in Section C, Condition #024 of proposed permit, Pa DEP and other states are currently engaged in litigation in federal court against First Energy Corporation and other First Energy entities in Pennsylvania concerning, among other issues, the applicability of PSD and NSR requirements to the Mitchell Power Station based on changes that were made on the units at that station. Pa DEP has reserved its right to establish additional requirements based on the application of PSD and/or NSR requirements as necessary to reflect the outcome of the litigation. Pa DEP must be sure to make any such revisions in a timely manner, and must be sure to provide the public with an opportunity to submit comments on any such Title V permit revision or amendment. (Sierra Club III.N.viii, Page 34)

Response 34: As the condition states, any outcome of this litigation will be binding on the operation of the Mitchell Station. Any applicable requirements resulting from this litigation will be incorporated into the TVOP in accordance with all regulatory procedures. No changes have been made to this condition.

Comment 35: PERMIT SECTION E, GROUP G06, CONDITION #002 - This condition states that CAIR budget reductions go into effect following the sixth control period following the date the plan approval or permit to comment operations or increase emission is issued. There is no basis for waiting until the sixth control period so the delay must be removed. (Sierra Club III.N.ix, Page 35)

Response 35: This condition is part of the process of conversion of allowances generated under Pa. CAIR to Emission Reduction Credits (ERC) used by facilities that are not part of the Pa. CAIR program. Its purpose is to keep allowances/ERCs from being used by both facilities (“Double emitting”). In this case, the allowances for the following five years were already generated, based on previous operation of the emission source covered under Pa.

CAIR and also all other sources covered under Pa. CAIR in the Commonwealth. The process of generation of allowances is described in 25 Pa. Code § 145.212. It is only in the sixth year that allowance generation reflects that this source has stopped generating allowances. No changes have been made to this condition.

II. Company Comments

A letter was received from Allegheny Energy Company (Commenter #4) containing the following comments:

Comment 36: PERMIT SECTION D, SOURCE ID 034, CONDITION #004: The company requested that the operational range limitation of the boiler during stack testing be changed from at least 90% of maximum boiler heat input to at least 90% of maximum electrical power generated, since the electrical generation rate can be determined at the time of the stack test. (Allegheny Energy 1)

Response 36: The Department agrees with this comment and the draft permit will be changed to require that testing shall be performed while Source ID 034 is operating at no less than 90% of rated full load, in MW, of the generating unit powered by Boiler 33.

Comment 37: PERMIT SECTION D, SOURCE ID 034, CONDITION #005: The requirement to conduct testing for filterable PM₁₀, filterable PM_{2.5}, and condensable particulate “for informational purposes only” every two years is excessive and unnecessarily burdensome since there are no condensable PM, or PM₁₀ or PM_{2.5} limits in the permit, and that these pollutants were previously quantified in the testing required by the Department in 2009. This requirement should be removed from the permit. Should the Department retain this requirement despite our objection, we request that Method 5 be available as an optional test method in lieu of Method 201A due to the scrubbed stack on Mitchell Boiler 33. (Allegheny Energy 2)

Response 37: The policy of the Department is to require testing for filterable particulate matter, filterable and condensable PM₁₀ and PM_{2.5} every two years. Prior to 2010, most EGU TVOPs required testing of filterable particulate matter once during the term of the permit or once every five years. In 2009, the Department required the operators of 73 electric generating units to conduct stack testing of filterable and condensable particulate matter for informational and planning purposes. After careful review of all testing results, on December 22, 2010, DEP released a final report entitled “Evaluation of Total Particulate Matter Emissions From Coal-Fired Electric Generating Units”. The report concluded that frequency of particulate matter stack testing on EGUs should be increased to once every 2 years. This revised 2 year testing interval has been incorporated into the TVOP. For the coal-fired boiler at the Mitchell Station, compliance with 25 Pa. Code § 123.11 is demonstrated by stack testing utilizing EPA Method 5.

The proposed TVOP renewal has been changed to allow the use of Method 5 in lieu of Method 201A for determining filterable PM₁₀ emissions.

Comment 38: PERMIT SECTION D, SOURCE ID 034, CONDITION #008(c)(1): The requirement to operate the ESP total power input and scrubber liquor flow rate indicators within a “10 percent margin of compliance” with the PM limit is more restrictive and inconsistent with 40 CFR Part 64 and the CAM Plan for Mitchell. In addition, there is no requirement to maintain

Boiler 33 within an equivalent 10% margin of compliance of the 0.100 lb/MMBtu filterable PM limit as demonstrated by bi-annual stack testing, or if continuous PM monitors were installed in the stack. This requirement should be removed from the permit and replaced with the following requirement: "ESP total power input and scrubber liquor flow rate shall be operated within the parameters corresponding to the filterable PM limit of 0.10 lb/MMBtu as established during correlation testing." (Allegheny Energy 3)

Response 38: The proposed TVOP renewal has been changed as requested.

Comment 39: PERMIT SECTION D, SOURCE ID 034, CONDITION #008(e)(1): As stated in the previous comment, basing an "excursion" on a 10 percent margin of compliance is effectively lowering the correlated filterable PM limit of 0.10 lb/MMBtu and is not consistent with 40 CFR Part 64 or with the CAM plan submitted by Allegheny Energy and approved by the Department. This requirement should be removed from the TVOP and an excursion should instead be based on ESP total power input and scrubber liquor flow rates corresponding to the 0.10 lb/MMBtu filterable PM limit. (Allegheny Energy 4)

Response 39: After careful consideration, the proposed TVOP renewal has been changed as requested. The previous language resulted in effectively lowering an emission limitation.

Comment 40: PERMIT SECTION D, SOURCE ID 101, CONDITION #001(c): Since the emergency diesel generator was installed prior to 2002, is rated over 500 BHP, and is located at a major source, it is therefore only subject to minimal provisions of Subpart ZZZZ. This condition should be revised to only require that annual hours of operation be recorded on a non-resettable hour meter in order to demonstrate compliance with the presumptive RACT limit of 500 hours/year, as stated in Condition #002 on Page 40. There are no requirements to perform annual tune-ups, maintenance, or fuel specifications. (Allegheny Energy 5)

Response 40: Previous language identified requirements that are not applicable to this source. The proposed TVOP renewal has been changed as requested.

Comment 41: Pages 63-76. TVOP, Section E. Source Group Restrictions (G06): This entire section contains mainly descriptive language and not specific regulatory requirements of the Clean Air Interstate Rule (CAIR) that is expected to be replaced by the Cross-State Air Pollution Rule (CSAPR), potentially before this TVOP for Mitchell is issued. In order to avoid re-opening the permit for this reason, the Department should simply incorporate the current CAIR rule by reference. (Allegheny Energy 6)

Response 41: The applicable requirements of CAIR with specific requirements for facilities in the Commonwealth of Pennsylvania are contained in the proposed TVOP renewal in Section E, Source Group G06. On December 30, 2011, the United States Court of Appeals for the District of Columbia issued an order staying implementation the Cross-State Air Pollution Rule (CSAPR) pending the resolution of an appeal of the rule. On August 21, a Federal

court vacated the Environmental Protection Agency's CASPR rule. Therefore, the requirements of Pa. CAIR are applicable to the Mitchell Station and will remain in the proposed TVOP renewal. No changes have been made to this condition.

Comment 42: PERMIT SECTION H: The criteria pollutants listed in this section contain the maximum potential emissions, and not the “estimated” emissions from the Mitchell Station. This list should be omitted since it may be misleading and the fact that the maximum potential emissions were already stated in the Class I Legal Advertisements on May 27-29, 2012, and on Page 3 of the TRD. (Allegheny Energy 7)

Response 42: The emission limit table previously found in Section H was for informational purposes only and did not establish “enforceable limits.” It has been removed from the proposed TVOP renewal to avoid confusion.

Comment 43: PERMIT SECTION H: Miscellaneous: Consistent with the existing TVOP for Mitchell, the phrase “Source Capacity/Throughput values listed in Section A (Site Inventory) and Section D (Source Level Requirements) are for informational purposes only and are not enforceable limits” should be added to Section H, Miscellaneous. (Allegheny Energy 8)

Response 43: The Department agrees and the statement “Source Capacity/Throughput values listed in Section A (Site Inventory) and Section D (Source Level Requirements) are for informational purposes only and are not enforceable limits.” has been added to the proposed TVOP renewal in Section H.

III. PennEnvironment Comments

A total of 1,218 individual commenter emails (Commenters #5 - #1223) were received as a single email from the organization PennEnvironment (PE). All of these individual commenter emails are virtually identical and were addressed as public comments to each of seven draft Title V Operating Permits for facilities which contain coal-fired EGUs. Mitchell Station is one of these facilities. The comments in each individual email are shown below:

Comment 44: Commenters ask that the Department strengthen the Title V Operating permits. (PE Comment 1)

Response 44: The Title V Operating Permit contains all State and Federal requirements that are applicable to the Mitchell Station.

Comment 45: Commenters state that the proposed Title V Operating Permits will not ensure SO₂ emission levels considered safe by EPA will be achieved. (PE Comment 2)

Response 45: Please see response to Comment 1.

Comment 46: Commenters note that the proposed Title V Operating Permits do not require direct monitoring of soot pollution (particulate matter or PM). (PE Comment 3)

Response 46: The proposed Title V Operating Permit contains requirements that the permittee demonstrate compliance with applicable PM limits through biannual stack testing and the implementation of a Compliance Assurance Monitoring (CAM).

IV. Additional Commenters

An additional 32 virtually identical emails from individual commenters (IC) (Commenters #1224 - #1255) were also received. The comments and our responses are shown below.

Comment 47: No type of equipment change or additional pollution controls are being proposed in this permit renewal. PA DEP should require the most stringent technologies and practices possible for reducing harmful pollutants from this facility. (IC Comment 1)

Response 47: The proposed TVOP renewal contains all applicable requirements that apply to the Mitchell Station. Generally, renewal of an operating permit does not authorize the Department to establish additional requirements.

Comment 48: PA DEP should ensure that this power station adheres to all air pollution regulations. (IC Comment 2)

Response 48: The Title V Operating Permit contains all applicable requirements. Failure of the permittee to comply with applicable requirements may result in enforcement action.

Comment 49: PA DEP should ensure that this power station adheres to the National Ambient Air Quality Standards. (IC Comment 3)

Response 49: Please see the response to Comment 1.

Comment 50: I request that PA DEP perform or require modeling to ensure that pollution from this station will not violate or impact these important health-based standards.

Response 50: Please see the response to Comment 1.

Comment 51: I request that PA DEP hold a public hearing and meeting for these permit applications before issuing a permit. (IC Comment 4)

Response 51: Per 25 Pa. Code § 127.428, PA DEP conducts public hearings when significant local public interest (in the conducting of a hearing) is expressed during the public comment period. While these 32 commenters all requested that the Department conduct a public hearing, only two of these commenters live in the Southwest Region of DEP, and none live in Washington County, where Mitchell Station is located.. Significant local public interest in a public hearing was not identified in these requests.

ATTACHMENT 2

Changes between Mitchell Station's TVOP as proposed on May 26, 2012 and as issued on November 30, 2012:

SECTION A. Site Inventory List

No Changes.

SECTION B. General Title V Requirements

Condition #004(d) has been revised to include the word "promptly" at Sierra Club's request.

Condition #007(c) has been partially revised to remove the last sentence at Sierra Club's request.

Condition #015 has been revised to include EPA in the severability clause at Sierra Club's request.

SECTION C. Site Level Requirements

Condition #009 (Old Condition #010) related to daily observations, has changed language to conform to the new wording of similar permits. The meaning of this condition has not been changed.

Condition #011 (Old Condition #012) related to recordkeeping, has changed language to conform to the new wording of similar permits. The meaning of this condition has not been changed.

Condition #014 (Old Condition #015) related to malfunctions, has changed language to conform to the new wording of similar permits. The meaning of this condition has not been changed.

Condition #015 was moved from its location in the posted draft Operating Permit. It had been old Condition #005. This condition assists in defining reporting requirements.

Condition #017 related to Compliance Certifications, has been edited for clarity.

Condition #019 had citation of authority changed from 40 CFR § 60.4 to 40 CFR § 63.9.

Condition #021 has been added.

Condition #023 has been added. This condition requires the owner/operator shall maintain and operate all the sources at this facility in accordance with manufacturer specifications and good air pollution control practices.

Old Condition #023 has been removed.

Section D. Source Level Requirements

Source ID: 031 B & W OIL UNIT:

Old Condition #031 has been removed because its citation of authority was superseded by 25 Pa. Code §§ 145.20 and 145.223.

Source ID: 034 BOILER NO. 33:

Condition #004 has been changed to require that testing shall be performed while Source ID 034 is operating at no less than 90% of rated full load, in MW, of the generating unit powered by Boiler 33 at Allegheny Energy's request.

Condition #005 has been changed to allow the use of EPA Method 5 in instead of EPA Method 201A, since the test location is downstream of a wet scrubber at Allegheny Energy's request.

Condition #006 has been changed to reflect that certain portions of Pa. Code § 123.25 are not applicable.

Condition #008 Paragraphs (c)(1) and (e)(1) have been changed to remove the 10% margin of compliance at Allegheny Energy's request.

Source ID 101: EMERGENCY DIESEL GENERATOR ENGINE (850-BHP):

Conditions #001, #002, #003, and #004 have been added, or changed at Allegheny Energy's request.

Source ID 116: EMERGENCY DIESEL FIREWATER PUMP ENGINE (266-BHP):

Conditions #001, #002, #003, #004, #005, and #006 have been added at Allegheny Energy's request.

SECTION E. Source Group Restrictions

Group G04: Utility Boilers #1, #2, #3 and #33:

Old Condition #005 has been removed.

SECTION F. Alternative Operation Requirements

There are no conditions in this section.

SECTION G. Emission Restriction Summary

No changes.

Section H.

The emission table was removed since it does not contain enforceable conditions at Allegheny Energy's request.

A statement was added to make clear that "Source Capacity/Throughput values listed in Section A (Site Inventory) and Section D (Source Level Requirements) are for informational purposes only and are not enforceable limits" at Allegheny Energy's request.

ATTACHMENT 3

The following is a list of all commenters to the public posting of this draft TV Operating Permit:

Group I Commenters (Single Comment Letter)

1. Kathryn M. Amirpashaie, Esq.
Outside Counsel for the Sierra Club
Law Office of Kathryn M. Amirpashaie, PLC
5594 Malone Ridge Street, Suite 5108
Alexandria, VA 22312

For the Sierra Club

2. Joseph Otis Minott, Esq.
Executive Director
Clean Air Council
135 S 19th Street, Suite 300
Philadelphia, PA 19103

For the Clean Air Council

3. Lauren Burge, Esq.
Staff Attorney
Group Against Smog and Pollution
5135 Penn Avenue
Pittsburgh, PA 15224

For the Group Against Smog and Pollution

Group II Commenter

4. James A. Lefik
Environmental Engineer
800 Cabin Hill Drive
Greensburg, PA 15601

For the Allegheny Energy Supply Co, LLC

Group III Commenters #5. – #1223. (Comments were identical within group.)

Akilah Abdul-Rahman 5349 W Montgomery Ave Philadelphia, PA 19131-3228	Chris Allen 1338 Veterans Hwy Levittown, PA 19056-2025	John Anthony 130 W 3rd Ave Collegeville, PA 19426-3608
Katharine Abel 72 Rose Hill Rd. Lake Como, PA 18437	Nathaniel Allen 5415 Pulaski Ave Philadelphia, PA 19144-3947	Scott Apt 192 William Penn Dr Norristown, PA 19403-5206
Martha Abell 390 Pleasant St Rome, PA 18837-8424	Richard Alliger 1093 Radnor Rd Wayne, PA 19087-2204	Cindy Arblaster 210 N Lincoln Ave Greensburg, PA 15601-2145
Doris Adebajo 508 Benson Ln Chester Springs, PA 19425-3644	Richard Alloway 11814 Basile Rd Philadelphia, PA 19154-2523	Garry Armstrong PO Box 15 West Middletown, PA 15379-0015
Arlene Adelman 635 Loretta St Pittsburgh, PA 15217-2823	Wayne Almond 408 Clymer Ave Morrisville, PA 19067-2270	Stephan Armstrong 657 Fisher Dr Watsontown, PA 17777-8039
Barbara Adkins 7104 Tulip St Philadelphia, PA 19135-1428	Karen Ames-Caylor 350 Ames Rd Mayport, PA 16240-5708	Thomas Armstrong 6445 Greene St Apt A201 Philadelphia, PA 19119-3256
Michael Ahlum 527 Sharpless St West Chester, PA 19382-3540	Don Amoruso 55 Bear Run Lane KRESGEVILLE, PA 18333	Donna Arthur 4600 Gettysburg Rd Mechanicsburg, PA 17055-4394
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